HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No.2316 of 1996
Date of decision : 24.01.2007

Ratta son of Pehlad .....Petitioner

versus

Thakur Dwara Murti Radha Krishan, Mutnauli. .....Respondent

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.C.B.Goel, Advocate for the petitioner.
Mr.Arun Singla, Advocate for the respondents.

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ORDER

HEMANT GUPTA, J.

The challenge in the present revision petition to the order passed by the learned Executing Court on 10.5.1996, whereby the objections filed by the present petitioner, were dismissed.

Respondent-Thakur Dwara Murti Radha Krishan (for short, `Thakur Dwara'), sought to execute decree for possession dated 14.2.1994. Vide aforesaid decree, lease dated 7.8.1980 for a period of 99 years in respect of land measuring 47 kanals 12 marlas, executed by one Ram Dass in favour of the present petitioner, was declared to be illegal, null and void. The petitioner filed the objections to the effect that Thakur Dwara through one Neki Dass, alleged Chela of Mahant Chetan Dass, cannot execute the decree against the present petitioner.

The learned Executing Court found that Neki Dass, as Sarprast of the decree holder, is entitled to take possession in pursuance of the decree against the present petitioner. It was also found that Mahant Chetan Dass has suffered a decree dated 4.12.1991 in favour of Neki

Dass, which shows love and affection of Chetan Dass towards Neki Dass and consequently dismissed the objections filed by the petitioner.

Learned counsel for the petitioner has vehemently argued that the decree dated 4.12.1991 was challenged by Bijinder Dass and by an interim order of injunction, the parties have been directed to maintain status quo regarding possession and alienation of the suit property. Therefore, Neki Dass cannot execute the decree granted in favour of Thakur Dwara when rights of the person entitled to represent the Thakur Dwara, have not been settled. It was stated that though the suit field by Bijinder Dass has been dismissed on 21.4.2005, but the appeal is pending.

Mahant Neki Dass has got a decree for declaration on 4.12.1991 to the effect that he is owner of the property as well as Sarprast of Mahant Chetan Dass. It was, thereafter, decree for possession was passed by the learned First Appellate Court on 14.2.1994 in favour of Thakur Dwara. The challenge to the decree dated 4.12.1991 by Bijinder Dass has remained unsuccessful to the extent that Neki Dass has been found to be Sarprast of Mahant Chetan Dass.

A photocopy of the judgment dated 21.4.2005 has been produced on record. A perusal of the said judgment shows that Mahant Neki Dass has been found to be Sarprast of Mahant Chetan Dass and the judgment and decree dated 4.12.1991 has been set-aside only qua the extent Neki Dass was declared as owner of the property. In view of the said judmgent, Neki Dass as Sarprast of Mahant Chetan Dass, is entitled to execute the decree for possession obtained by Thakur Dwara.

The petitioner cannot dispute the question that who is to represent Thakur Dwara i.e. Neki Dass or Bijinder Dass. The decree for

possession was passed in favour of Thakur Dwara. In view of the judgment and decree dated 21.4.2005, Neki Dass is entitled to execute the decree for the benefit of Thakur Dwara. The petitioner a lessee, whose lease has been found to be null and void, cannot take the benefit of dispute regarding representation of his lessor i.e. Thakur Dwara. It is not open to the petitioner to raise a dispute regarding entitlement of Neki Dass to recover the possession of the suit property for the benefit of the Thakur Dwara. Therefore, the question whether the Thakur Dwara is represented by Neki Dass or Bijinder Dass, cannot be permitted to be raised by the present petitioner.

Consequently, I do not find any illegality or irregularity in the order passed by the learned Executing Court, which may warrant interference of this Court in exercise of its revisional jurisdiction.

Dismissed.

(HEMANT GUPTA)
JUDGE

January 24, 2007
**mohinder*